



**COMMONWEALTH of VIRGINIA**  
*Office of the Attorney General*  
*Richmond 23219*

**Judith Williams Jagdmann**  
Attorney General

900 East Main Street  
Richmond, Virginia 23219  
804-786-2071

April 6, 2005

The Honorable Robert G. Burnley, Director  
Virginia Department of Environmental Quality  
629 East Main Street  
Richmond, Virginia 23219

Re: Authority to Promulgate Water Quality Management Planning Regulation, 9 VAC 25-720  
Final Adoption, Four TMDL Waste Load Allocations:  
James River Basin, 9 VAC 25-720-60.A  
Roanoke River Basin, 9 VAC 25-720-80.A  
Chowan River Basin-Dismal Swamp River Basin, 9 VAC 25-720-100.A  
New River Basin, 9 VAC 25-720-130.A

Dear Director Burnley:

I have reviewed the above-referenced regulation. It is my opinion that the State Water Control Board has authority to promulgate the regulation under applicable law, including Chapter 3.1 of Title 62.1 of the Code of Virginia. Based upon your agency's representations, it is also my view that under Va. Code § 2.2-4006.A.4(c) the regulations are excluded from Article 2 of the Virginia Administrative Process Act because they are necessary to meet the requirements of federal regulations.

If I may be of any further assistance to you relating to this matter, please do not hesitate to contact me.

Sincerely,

Cathie F. Hutchins  
Assistant Attorney General  
Environmental Unit

cc: Ellen Gilinsky  
Cindy Berndt

804-371-8947 TDD